

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-cv-02973-REB-MEH

JON A. GOODWIN, an individual, directly and derivatively in the Right of and for the Benefit of Barra Partners, LLC, a Delaware Limited Liability Company.

Plaintiff

v.

[REDACTED] et al.,

Defendants,

PLAINTIFF’S OPPOSITION TO TWITTER, INC’S MOTION TO DISMISS

At this juncture in the proceedings, Defendant Twitter¹ seeks a dismissal under Federal Rules of Civil Procedure, Rule 12 without having answered the complaint.

The complaint in this case involves a far-reaching conspiracy that included wire fraud, extortion, intimidation and retaliation against Plaintiff to *inter alia* frustrate legal remedies for self-serving motives and Twitter by and through its employees or agents played a critical and pivotal role in that conspiracy. The underlying criminal predicate acts that form the basis of Plaintiff’s racketeering and tort claims in which Twitter is alleged to have engaged are not protected activity and Twitter cannot so easily cloak themselves in immunity under 47 U.S.C. § 230, the Communications Decency Act (“CDA”) as they are attempting to do.

Defendant Twitter does not deny Plaintiff’s allegations regarding their employees or agents’ participation in the manufacturing and publication of the Fraudulent

¹ Plaintiff herewith incorporates Appendix A “Defined Terms” to the Original Verified Complaint.

██████████.50 Cal Tweet (“Fraudulent .50 Cal Tweet”) and overt acts in furtherance of the RICO Defendants’ extortionate scheme, instead they circumnavigate the question throwing up a smoke screen by ignoring pled facts, impotently asserting immunity, mendaciously claiming Goodwin’s inclusion of them in this action is retaliatory, and attempting to obfuscate Twitter’s agents’ relationship with ██████████ and finish with an improper venue challenge wasting this Courts’ and Plaintiffs’ precious time to delay responding to the complaint within the statutorily prescribed period.

The plaintiff is entitled to his theory of the case and to place his case before a trier of fact if potential inferences from the facts would support his causes of action. If this Court finds any defects in the complaint, plaintiff hereby requests leave to amend the complaint to cure those defects.

FACTUAL ALLEGATIONS

A. Factual Allegations Involving Defendant Twitter

The nature of Twitter’s service, during the period in which Plaintiff believes the overt acts involving Twitter occurred, from approximately mid-summer 2011 through and including December 6, 2011, was that users: (i) could only access approximately “3,200 most recent Tweets,” (ii) could not obtain from Twitter an entire archive² of their published statements³ (see Exhibit. 1, hereto); (iii) could not delete Tweets from their account beyond the 3,200 limit (without deleting all of their Tweets or in contravention to Twitter’s advice not to use “**mass-deletion programs**,” see Exhibit 1); (iv) could not edit their Tweets; and (v) could not search Tweets on Twitter’s system that were more

² According to an article on Twitter’s website, it did not introduce the capability to allow users to obtain the entire archive of their published statements (including “Retweets”) until December 19, 2012.

³ At October 17, 2011 the @EvilEsq Twitter user account had published over 10,750 “Tweets” since the account was established on March 2, 2009.

that a “week old ... because of indexing capacity restrictions” (Exhibit. 1). Thus, Twitter exercised dominion over its database of user content in a manner that precluded users, including Plaintiff, from viewing or searching the records of their Tweets and “Retweets” (republications of other Twitter users’ Tweets), outside the foregoing limits preventing them from validating and archiving evidence of the statements published by or related to their accounts (Retweets) or to universally search or view other users’ accounts.

The heart of Plaintiff’s claim against Twitter is that they and their agents, in confederation with defendants [REDACTED] other named defendants and unknown Does published or caused the publication of the “Fraudulent .50 Cal Tweet,” in approximately mid-summer 2011, as set forth at ¶804 in the Original Verified Complaint (“Complaint”) by altering records in the @EvilEsq Twitter user account or causing another to fabricate and publish this statement to frame Goodwin as having “physically threaten[ed]” (Compl. ¶804) defendants [REDACTED] and [REDACTED] in furtherance of their retaliation against him (Compl. ¶932) and to **extort** and intimidate him from exercising his Constitutional rights and obtaining remedies for, and relief from, the substantial harm caused him by the RICO Defendants (Compl. ¶¶933) and to be corruptly criminally charged through [REDACTED] and [REDACTED] symbiotic relationship with Defendant Redwood City officials, which they do not deny in either Docket No. 29 or 30.

Since Twitter’s incorporation in April 2007, it has been a voracious consumer of capital having raised, through December 31, 2011 and September 30, 2013, \$924.3 Million and \$1.27 **Billion**, to fund accumulated deficits of \$269.9 Million and \$483.2

Million, respectively, and projected cash requirements⁴ and has depended heavily on its relationships with venture capital investors to remain in business.

██████████ ██████████ wields significant influence in the venture capital industry as illustrated in a statement published by Defendant ██████████ @██████████ a ██████████ ██████████ Partner, on Twitter's "service" on March 3, 2012:

"wow. @██████████ [Defendant ██████████ ██████████ was involved in \$0.64 of every \$1.00 of venture money raised by funds in 2011. that's just crazy."

To further their scheme to frame Plaintiff as "physically threatening" to shoot them with a large gun that fires .50 caliber bullets in order to extort, intimidate and retaliate against him, defendants ██████████ ██████████ and ██████████ ██████████ solicited and received Twitter's and unknown Does' participation and assistance to promulgate and publish the Fraudulent .50 Cal Tweet. Plaintiff contends that it's plausible ██████████ ██████████ was able to arrange Twitter's participation in this conspiracy because of their access to and influence with principals and/or agents of several of Twitter's venture capital investors whose firms are ██████████ ██████████ clients including: (i) ██████████ ██████████ of ██████████ ██████████ client ██████████ ██████████ ██████████ & ██████████ (observed Twitter's board from approximately late 2010 through September 2011) (Compl. 800(g)); (ii) ██████████ ██████████ of ██████████ ██████████ client Union Square Ventures served on Twitter's board from and including approximately 2007 through the late summer or early fall of 2011(Compl. 800(b)); (iv) ██████████ ██████████ of ██████████ ██████████ client ██████████ ██████████ served on Twitter's board from and including approximately early 2009 through the late summer or early fall of 2011(Compl. 800(e)); and (v) ██████████ ██████████ of ██████████ ██████████ client

⁴ Source: Twitter, Inc.'s Form S-1/A Securities Registration Statement filed with the S.E.C. November 4, 2013.

Benchmark Capital (where former [REDACTED] [REDACTED] “co-founding” partner [REDACTED] [REDACTED] serves as a “General Partner”), has served on Twitter’s board from February 2009 (Compl. 800(i)).

Similarly, Plaintiff is informed and believes that [REDACTED] [REDACTED] principals have direct relationships with several Twitter executives and engineering personnel, who ostensibly have the authority to insert, modify or delete records in the Twitter’s user content database, any one of whom could have been corrupted to assist defendants [REDACTED] [REDACTED] and [REDACTED] [REDACTED] to frame Goodwin, a plausible motivation being to curry favor with their prominent venture capital investors and [REDACTED] [REDACTED]

Plaintiff’s November 2011 statement to Defendant Twitter that the Fraudulent .50 Cal Tweet had not been published from the @EvilEsq Twitter user account or any related account, coupled with: (i) the fact that [REDACTED] [REDACTED] had omitted from their letter to Twitter the date the statement was allegedly published; and (ii) the accusation that Goodwin was “physically threatening” the prominent Silicon Valley law firm who represents several of their venture capital investors, some of whose principals sit on Defendant Twitter’s board of directors, with a large .50 caliber gun was more than enough information to trigger an investigation by Defendant Twitter of the @EvilEsq account to “protect the rights, property or safety of Twitter, its users and the public” pursuant to the “Terms of Service” cited in “Exhibit 1” of “Twitter, Inc.’s Motion to Dismiss” (Docket No 19), at page 4, ¶1.

Considering the foregoing, it’s easy to conclude that Defendant Twitter would have conducted such an investigation through a search of its database, quickly establishing the true facts regarding the source of publication of the Fraudulent .50 Cal

Tweet. Unless someone working at Twitter with the access privileges necessary to insert the Fraudulent .50 Cal Tweet into the @EvilEsq user account by creating a back dated database record or altering an existing record took such action, a review of the results from a search of its database, would have immediately established that defendants [REDACTED] - [REDACTED] and [REDACTED] [REDACTED] accusation was false and they were causing Twitter to perpetrate frauds using the interstate and international wire system to threaten Plaintiff with *inter alia* framing him as having made threats to shoot them with a .50 caliber gun and presumably would have contacted law enforcement to alert them to Defendant [REDACTED] [REDACTED] fraudulent scheme.

Twitter's confederation with Defendant [REDACTED] [REDACTED] and prejudice against Plaintiff is evidenced in another way, as Goodwin never received notification of the subpoena it received from Defendant [REDACTED] [REDACTED] in approximately early November 2010 (Compl. 611). It's a matter of public record that Twitter has notified parties in other cases, e.g., *In re GRAND JURY SUBPOENA NO. 11116275*, 846 F.Supp.2d 1 [Dist. Court, Dist. of Columbia 2012]) and, represented by Perkins Coie, moved to quash a subpoena in *People v. Harris*, 36 Misc. 3d 868 - NY: City Court, Criminal Court 2012. Twitter also states in its "Guidelines for Law Enforcement" (see Exhibit 2, hereto) that it notifies users of requests for account information "unless ... prohibited from doing so by statute or court order." Had Defendant Twitter notified Goodwin of the California Johnson's subpoena, he would have had the opportunity to move to quash it.

Weighing the facts, it's simply implausible that Twitter was not aware that the Fraudulent .50 Cal Tweet was bogus prior to their transmitting it to Plaintiff and it's also implausible that defendants [REDACTED] - [REDACTED] [REDACTED] [REDACTED] et al., of [REDACTED] [REDACTED] would have included such a fraudulent statement in a

communication to Twitter who had the capability to quickly analyze its authenticity unless they were in cahoots.

Twitter's emailing to Plaintiff the communiqué containing the Fraudulent .50 Cal Tweet and subsequent refusal to confirm it had not been published from @EvilEsq Twitter user account or identify the account from which it was sent was not only a furtherance of the RICO Defendants' extortionate schemes, but in and of itself represented a threat because it implied that Defendant Twitter had authenticated it as genuine, causing Goodwin to believe Defendant Twitter had indeed altered the database records related to his account.

B. Factual Allegations Regarding Goodwin's Pleadings

Plaintiff pled with particularity (*see* Items #99–101 of Appendix B to the Complaint and ¶¶936, 958, 959, 964) that Twitter committed three (3) predicate RICO and COCCA violations of 18 U.S.C. 1343 (Wire Fraud) by transmitting to him, using the interstate and international wire communications system (Compl. ¶¶871) defendants [REDACTED] and [REDACTED] communiqué containing the Fraudulent .50 Cal Tweet (Compl. ¶¶803–810) and thereafter ignored his pleas for assistance in order to manufacture false evidence in furtherance of the RICO Defendants' retaliation (Compl. ¶¶926, 927(j) –932), extortion (Compl. ¶¶933–938) and victim tampering (Compl. ¶959), as well as the delay in bringing this action.

While Plaintiff was obviously not privy to communication between Defendant Twitter and the other RICO Defendants regarding their participation in the RICO Enterprise, the Complaint sufficiently alleges that Twitter conspired to engage in racketeering activity, aided and abetted, committed or assisted in the commission of overt and/or criminal predicate acts in furtherance of the objectives of the RICO

Enterprise (Compl. ¶¶172, 173(o), 862(r), 934, 937) and provides sufficient circumstantial evidence that such a meeting of the minds occurred including:

(i) Twitter’s investors, agents (including directors) and employees closely knit relationship with Defendant [REDACTED] [REDACTED] (Compl. ¶800); (ii) [REDACTED] - [REDACTED] using the office of defendants [REDACTED] [REDACTED] and [REDACTED] the principal founding partner and Chairman of [REDACTED] [REDACTED] and its Managing Partner, respectively, instead of using her own office to transmit the facsimile containing the fraudulent statement to Twitter (Compl. ¶803 and Appendix B at item #98) indicating their endorsement of the manufacturing of the Fraudulent .50 Cal Tweet; (iii) the fact that Twitter has the capability to quickly discern the authenticity of the Fraudulent .50 Cal Tweet, the user account from which it was published and the date and time it was published by querying its database, which capability Plaintiff and other Twitter’s users lacked; (iv) emailing the letter containing the Fraudulent .50 Cal Tweet (Compl. ¶804 Appendix B Items #99–101) to Plaintiff; and (v) refusing Plaintiff’s multiple requests including requests to verify that the statement was not published from the @EvilEsq Twitter account and to identify the real sender (Compl. ¶807), including recently through its counsel.

The foregoing RICO and COCCA predicate acts form the basis of Plaintiff’s claims that Defendant Twitter along with the other RICO Defendants “participated, directly or indirectly, in the conduct, management, or operation of the RICO Enterprise’s affairs through a ‘pattern of racketeering activity’” (Compl. ¶857, 863).

Plaintiff has not asserted in this action that Twitter’s response to the subpoena issued by Neville Johnson forms the basis of his claims against it or its agents. Contrarily, at Compl. ¶¶611–633 and 643–644 Plaintiff avers that the information

included in Twitter's subpoena response evidences that the California [REDACTED] and the [REDACTED] [REDACTED] racketeers possessed the knowledge of Plaintiff's location in Colorado, which fact defendants [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] perjurally propounded to the Los Angeles court, they were unaware.

Contrary to Twitter's aspersions, the over two-hundred (200) separate criminal acts alleged in the Complaint including but not limited to: extortion, money-laundering, violations of the National Stolen Property Act, wire fraud, perjury, victim tampering and retaliation perpetrated against multiple victims including individuals, businesses and governments are not acceptable "business" practices. Plaintiff's refusal to participate in the RICO Enterprise to launder money on behalf of an alleged narcotics trafficking organization and commit various acts of fraud did not constitute business decisions nor did [REDACTED] [REDACTED] and [REDACTED] [REDACTED] extortion of him to steal [REDACTED] [REDACTED] assets and conceal their participation in such schemes constitute a "business dispute." Plaintiff choose not to participate in the activities of the RICO Enterprise and has been forced to endure immense personal hardship as a consequence.

C. Factual Allegations Regarding [REDACTED] [REDACTED]

[REDACTED] [REDACTED] was a Delaware limited liability company, which to Plaintiff's knowledge never had more than three (3) members (Compl. ¶9). Defendant [REDACTED] in his answer to the Verified Original Complaint (Docket No. 10 at ref. ¶9) does not deny this and confirms that [REDACTED] [REDACTED] "once had three members" and "no longer exists."

As alleged in the Complaint, defendants [REDACTED] and [REDACTED] converted all of the assets from [REDACTED] [REDACTED] transferring them to their personnel possession and entities they controlled, constructively withdrawing from and abandoning [REDACTED] [REDACTED] and leaving only Plaintiff as the sole remaining member and manager to represent the firm's

interests. Defendants [REDACTED] and [REDACTED] stated in the [REDACTED] Dec. 03/31/2011 at ¶11 that “Barra Partners ... terminated all business operations in December of 2003.”

MEMORANDUM OF POINTS AND AUTHORITIES

A. Plaintiffs Cognizable Claims Against Defendant Twitter, Inc.

Defendant Twitter refuses to address Plaintiff’s many factual allegations and “cognizable claim[s]” asserted against it choosing instead to ignore their existence, cast them as “conclusory” and pad its motion with interesting but irrelevant case law in the context of this action and its involvement therein.

Supporting the idea that a plaintiff must be allowed to plead his case with the widest latitude, with the benefit of all doubts and all contentions or ambiguities resolved in his favor, modern federal rules of pleading allow a complaint to stand if it can prevail on any theory assuming the facts pled are true. All that is necessary to set forth claims for relief is a short and plain statement showing that the pleader is entitled to the relief. Fed. R. Civ. P., Rule 8(a)(2) an exception being that pursuant to Fed. R. Civ. P. 9(b) in alleging fraud, “a party must state with particularity the circumstances constituting fraud.” Plaintiff has plainly met and exceeded these burdens through his pleading facts described herein that are set forth in the Complaint, including pleading with particularity dates, places and other details of the fraudulent activity underlying the RICO and COCCA predicate violations of 18 U.S.C. 1343 (Fraud by Wire).

B. Twitter’s Invocation of Immunity Under Federal Law Is Invalid

Plaintiff alleges in the complaint that Twitter “advised, confederated, aided and abetted, and otherwise orchestrated the promulgation, transmission, posting and

circulation of the Fraudulent .50 Cal Tweet during approximately July or August 2011” (Compl. ¶934) which would cause Twitter to be characterized as an “information content provider” defined in 47 U.S.C. § 230(3) as “any person or entity that is responsible, in whole or in part, for the creation or development of information provided through the Internet or any other interactive computer service.” Information content providers cannot cloak themselves in CDA immunity, and therefore, Defendant Twitter’s assertion of immunity under the Communications Decency Act, 47 U.S.C. § 230 is invalid.

C. Plaintiff Has Stated Cognizable RICO and COCCA Claims against Twitter

RICO was passed to aid in: “[t]he elimination of the infiltration of organized crime and racketeering into legitimate organizations operating in interstate commerce”⁵ which has been a significant problem in this case.

When Defendant Twitter excluded Plaintiff from its notification policy and, as alleged, participated in the promulgation, transmission, posting and circulation of the Fraudulent [REDACTED] [REDACTED] .50 Cal. Tweet (Compl. ¶934) it stepped outside of the bounds of its ordinary business as a purported “interactive computer service provider” and into participating in the execution of a multi-faceted fraudulent scheme to retaliate against, extort and intimidate Plaintiff that proximately caused him injuries.

While the full extent of Defendant Twitter’s participation and the roles it and its agents assumed in furthering the RICO Defendants’ scheme to frame Goodwin as having made violent threats is yet unknown, because Defendant Twitter exercised primary dominion over relevant portions of the user content stored in its information database(s), its participation in the management of the scheme to frame Goodwin was

⁵ S. REP. NO. 91-617, at 76 (1969).

essential to its conduct and the objectives of the RICO Enterprise to successfully extortionately threaten Goodwin as alleged in (Compl. ¶¶934–938).

While the Colorado Supreme Court has acknowledged that COCCA was patterned after RICO, it has also concluded that federal law is inapplicable in interpreting the meaning of “pattern of racketeering activity” because the COCCA definition differs from the RICO definition⁶. Plaintiff’s COCCA claims differ substantially from his RICO claims in the relief available and sought as well as the nature of the pattern of racketeering activity and must be separately analyzed from the RICO claims.

D. Plaintiff’s Ability to Assert Claims on Behalf of [REDACTED] [REDACTED] Pro Se

Rule 23.1(a) provides that a representative plaintiff may only maintain a derivative action if the plaintiff fairly and adequately represents the interests of similarly situated shareholders in enforcing a right of the entity. The other two Barra Partners members, Defendants [REDACTED] and [REDACTED] who are parties and represented in this action ([REDACTED] *pro se*), constructively withdrew from [REDACTED] [REDACTED] in approximately late 2003 leaving Goodwin as the last remaining member of the limited liability company. Since that time, no one has come forward to represent [REDACTED] [REDACTED] interests except Plaintiff whose de facto sole membership interest causes his personal interests to be nearly identical to [REDACTED] [REDACTED] interests and therefore free of conflicts. Plaintiff’s representation *pro se* to protect his own sole membership stake in the firm is better than no representation which has been the case for nearly a decade.

Defendants in a derivative action have the burden of demonstrating that the

⁶ People v. Chaussee, 880 P.2d 749 (Colo. 1994)

plaintiff is an inadequate representative.⁷ The district court need not make a preliminary affirmative determination that the plaintiff will fairly and adequately represent the interest of people similarly situated.⁸ The district court's determination of adequacy of representation is reviewed only for an abuse of discretion.⁹ Thus, Plaintiff should be allowed to proceed *pro se* in this action as an exception to the general rule that a non-lawyer cannot appear for a corporation or limited liability company.

E. Venue Is Proper in this Court

In the Federal District Courts venue is governed entirely by federal law even if the action is based on diversity jurisdiction. *Stewart Organization, Inc. v. Ricoh Corp.*, (1988) 487, U.S. 22, 28. Ordinarily venue must be proper as to each defendant and with respect to each claim. There are exceptions recognized in cases where actions by one defendant on behalf of a conspiracy may support venue as to other defendants who were members of the conspiracy. *Securities Investor Protection Corp. v. Vigman*, 764 F.2d 1309, 1317 (9th Cir. 1985).

This is especially true in a conspiracy involving RICO Claims. For example, in the case of *Magellan Real Estate Inv. Trust v. Losch*, 109 F. Supp. 2d 1144, 1162, R.I.C.O. Bus. Disp. Guide (CCH) P 9983 (D. Ariz. 2000), the court held that RICO claims were outside the scope of the choice of law provisions in the contracts.

The issue of venue in a Federal District case is always a matter of balancing the

⁷ **Defendant's burden.** *Lewis v. Curtis*, 671 F.2d 779, 788 (3d Cir. 1982) (defendant failed to carry burden).

⁸ **No preliminary determination of adequacy.** *Gottlieb v. Wiles*, 11 F.3d 1004, 1010-1011 (10th Cir. 1993) (Fed. R. Civ. P. 23.1 does not offer same mechanisms as Fed. R. Civ. P. 23 to protect class).

⁹ **Abuse of discretion standard.** *Larson v. Dumke*, 900 F.2d 1363, 1364 (9th Cir. 1990) (district court abused its discretion for decision that representation was inadequate).

various factors of convenience and public policy. In fact, District Courts have discretion to refuse enforcement of a forum-selection clause where transfer would “contravene a strong public policy of the forum in which the suit is brought whether declared by statute or by judicial decision.” *M/S Bremen v. Zapata Off–Shore Co.* (1972) 407 U.S. 1, 15. At the same time, it has been held that a forum-selection clause is unenforceable where transfer would hinder enforcement of civil rights laws, to wit: “The existence of a forum selection clause cannot preclude the district court's inquiry into the public policy ramifications of transfer decisions.” *Red Bull Assocs. v. Best Western Int'l, Inc.*, 862 F2d 963, 967 (2nd Cir. 1988).

In this case the convenience of the parties, the expense of litigation, the RICO conspiracy and public policy issues all favor enforcement of venue in the Colorado District Court.

F. Standard for Leave to Amend Is Liberally Applied

The standard for granting leave to amend is very liberal. If there is a possibility that a complaint can be effectively amended, leave should be granted to do so.

Plaintiff requests leave of court to amend the complaint in order to describe in detail, if the court should find it necessary, any causes of action that may be insufficiently pled.

Federal Rules of Civil Procedure, Rule 15(a)(2) requires the court to adopt a very liberal policy toward giving a plaintiff leave to amend the complaint at least once.

The underlying principle is the interest in serving justice. A district court must grant leave to amend freely when justice so requires. This policy is to be applied with extreme liberality. *Lopez v. Smith*, 203 F.3d 11122, 1130 (9th Cir., 2000). *Moronogo Band of Mission Indians v. Rose*, 893 F.3d 1074, 1079 (9th Cir. 1990).

In exercising its discretion whether to grant leave to amend, the Court should be guided by the underlying purpose of allowing amendments, which will facilitate the parties obtaining a judgment on the merits of the action. *Filmtec Corp. V. Hydranautics*, 67 F.3d 931, 935 (Fed. Cir. 1995).

In fact, it has been held that the policy that a court should freely grant amendments limits a court's ability to deny leave to amend, and in a proper case, may warrant a finding of abuse of discretion in denying leave. It was an abuse of discretion to deny leave to amend a complaint where plaintiffs were trying in good faith to amend to meet heightened pleading standards applicable to securities fraud actions. See, *Eminence Capital, LLC. V. Aspeon, Inc.* 316 F.3d 1048, 1051-1053 (9th Cir. 2003)

In this case, should the court find any defect in the complaint, the plaintiff hereby requests leave of court to amend the complaint under this very liberal standard to encourage judgment on the merits.

CONCLUSION

Plaintiff has a right to present his facts before the trier of fact and for the trier of fact to draw the inferences that plaintiff has suffered from the causes of actions alleged. What is disputed is the import of those facts and the inferences that a trier of fact is entitled to draw from them. Plaintiff is entitled to his theory of the case and he is entitled to place his case before a trier of fact if potential inferences from the facts would support his causes of action.

For the reasons cited above, this Court should ignore Defendant Twitter's motion to dismiss and cause it to immediately answer Plaintiff's complaint, or in the alternative permit Plaintiff to conduct discovery.

Respectfully submitted this 17th day of December 2013.

s/ Jon A. Goodwin

Jon A. Goodwin

Plaintiff in Persona Propria

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CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2013, I electronically filed the foregoing with the Clerk of the Court using CM/ECF system, which will send notification of such filing to the following email addresses.

[REDACTED]
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[REDACTED]
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Exhibit 1

Help Center (/)⁰

Got an account? Sign in (https://twitter.com/login?redirect_after_login=https%3A%2F%2Fsupport.twitter.com%2Fgroups%2F55-troubleshooting%2Ftopics%2F231-tweets-direct-messages%2Farticles%2F277671-i-m-missing-tweets-or-dms)

Search

English ▾

Welcome to Twitter (/groups/50-welcome-to-twitter)

Me (/groups/51-me)

Connect (/groups/52-connect)

Discover (/groups/53-discover)

Mobile & Apps (/groups/54-mobile-apps)

Troubleshooting



Login issues
(/groups/55-troubleshooting#topic_228)

I'm missing Tweets or DMs

Tweets on my profile are cut off after a specific date:

Account settings
(/groups/55-troubleshooting#topic_229)

Remember that we only display your **3,200 most recent Tweets** (<https://support.twitter.com/articles/13920-frequently-asked-questions#maxtweets>). Truncated profile timelines can be caused by:

Profile settings
(/groups/55-troubleshooting#topic_230)

Users deleting many Tweets in a row from their profile.

Users who run a mass-deletion program like TwitWipe, TweetEraser, or DeleteMyTweets.com on their profile.

We do not advise using mass-deletion programs. If you deleted many Tweets because you wanted a fresh start on Twitter, click here (<https://support.twitter.com/articles/18906-how-to-delete-a-tweet#freshstart>) for instructions on how to start over afresh.

Tweets & direct messages
(/groups/55-troubleshooting#topic_231)

Tweets more than a week old may fail to display in timelines or search because of indexing capacity restrictions. Old Tweets are never lost, but cannot always be displayed.

Following & followers
(/groups/55-troubleshooting#topic_232)

I'm missing direct messages:

Search (/groups/55-troubleshooting#topic_233)

Direct messages can be deleted by either the sender or the recipient at any time and will be removed at that point from **both** users' message histories. If your DM is missing, it's likely that the person you were communicating with deleted the message. Learn more. (<https://support.twitter.com/articles/14606-what-is-a-direct-message-dm>)

Mobile & apps
(/groups/55-troubleshooting#topic_234)

The number of Tweets I see on my profile looks wrong:

Report violations
(/groups/55-troubleshooting#topic_235)

If the Tweet count displayed on your profile page does not match the number of Tweets displayed on that page, this can be caused by users deleting many Tweets in a row from their profile OR by users who run a mass-deletion program like TwitWipe, TweetEraser, or DeleteMyTweets.com on their profile.

Again, we do not advise using mass-deletion applications. If you're looking to get a fresh start on Twitter, click here (<https://support.twitter.com/articles/18906-how-to-delete-a-tweet#freshstart>) for instructions on how to do so.

We are aware of the issue with the deletion of multiple Tweets and are working to restore Tweet counts to users affected by this issue. Follow @Support for updates.

Tweets don't appear where I expect them to:

We often hear from users who are confused about where their Tweets appear. Mentions and @replies, for example, only appear on your own home timeline and in the Mentions tab of the user to whom you replied. @replies do sometimes appear when the original Tweet is expanded, but due to capacity restrictions not all @replies will appear in an expanded Tweet. We encourage you to read more about types of Tweets and where they appear (<https://support.twitter.com/articles/119138-types-of-tweets-and-where-they-appear>).

Still need help? Contact Support (/forms).

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Exhibit

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Guidelines for Law Enforcement

These guidelines are intended for law enforcement personnel seeking to request information about Twitter users. More general information on Twitter's Rules can be found [here](#).

What is Twitter?

Twitter is a real-time information network powered by people all around the world that lets users share and discover what's happening now. Users send 140 character messages through our website and mobile site, client applications, or any variety of third-party applications. For more information, you can also visit <http://twitter.com/about>.

For the latest on Twitter's features and functions please visit our [Help Center](#).

What User Information Does Twitter Have?

User information is held by Twitter, Inc. in accordance with our [Privacy Policy](#) and [Terms of Service](#). We require a subpoena, court order, or other valid legal process to disclose information about our users.

Most Twitter profile information is public, so anyone can see it. A Twitter profile contains a profile image, background image, and status updates, called Tweets. In addition, the user has the option to fill out location, a URL, and a short "bio" section about themselves for display on their public profile. Please see our [Privacy Policy](#) for more information on the data we collect from users.

Does Twitter Have Access to Photos or Video Shared by Users?

Twitter does not provide multimedia (photos or videos) hosting other than for a user's profile image and account background image, and therefore is not able to provide images or videos that a user may share through their account. More information can be found on our [Photo and Video Sharing](#) page.

Private information requires a subpoena or court order

In accordance with our [Privacy Policy](#) and [Terms of Service](#), non-public information about Twitter users is not released unless we have received a subpoena, court order, or other valid legal process document. Some information we store is automatically collected, while other information is provided at the user's discretion. Though we do store this information, it may not be accurate if the user has created a fake or anonymous profile. Twitter doesn't require email verification or identity authentication.

Data retention information

Twitter retains different types of information for different time periods. Given Twitter's real-time nature, some information may only be stored for a very brief period of time.

Preservation requests must be signed, include a valid return email address, and sent on law enforcement letterhead. Requests may be sent via the methods described below.

Will Twitter Notify Users of Requests for Account Information?

Twitter's policy is to notify users of requests for their information prior to disclosure unless we are prohibited from doing so by statute or court order.

Request User Information

Twitter, Inc. is located in San Francisco, California and will only respond in compliance with U.S. law to valid legal process.

Twitter accepts legal process from law enforcement agencies delivered by mail or fax. Acceptance of legal process by these means is for convenience only and does not waive any objections, including the lack of jurisdiction or proper service. Your request should include the URL of the Twitter profile in question (eg., <http://twitter.com/safety> or @safety), and details about what specific information is requested.

Twitter conducts most correspondence via email, so PLEASE INCLUDE A VALID EMAIL ADDRESS so we may contact you. To contact us, email: lawenforcement@twitter.com

You can fax Twitter, attention Trust & Safety, at 1-415-222-9958.

Or you can mail your request to Twitter:

Twitter, Inc.
795 Folsom Street
Suite 600
San Francisco, CA 94107

Only email from law enforcement domains will be accepted. All others will be disregarded. Non-law enforcement requests should be sent through our regular support methods (<http://support.twitter.com>).

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